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8 Attorneys for Plaintiff

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 UNITED STATES OF AMERICA,) No. 06-00195 RMW
14 Plaintiff,)
15 v.) STIPULATION AND []
16 PIERRE DINH,) ORDER CONTINUING HEARING DATE
17 Defendant.) AND EXCLUDING TIME
18 _____) SAN JOSE VENUE

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20 The parties are currently scheduled for a motions hearing on Monday, March 24, 2008 at 9:00
21 a.m. The government was recently informed by defense counsel Douglas Rappaport that he
22 needs additional time to file his motion to dismiss the indictment due to the destruction of
23 evidence. Therefore, the parties respectfully request that the motions hearing be vacated and
24 rescheduled for Monday, May 12, 2008. This will allow defense counsel to file his motion by
25 March 28, 2008 and afford the government an opportunity to respond by April 18, 2008. In
26 addition, government counsel is unavailable the last two weeks in April because of family
27 vacation. The parties also requested an exclusion of time under the Speedy Trial Act from March
28 24, 2008 to May 12, 2008 in order for defense counsel to prepare his motion. The parties agree

1 and stipulate that an exclusion of time is appropriate based on the defendant's need for effective
2 preparation of counsel.

3 SO STIPULATED: JOSEPH P. RUSSONIELLO
4 United States Attorney

5 DATED: 3/18/08 /s/
6 SUSAN KNIGHT
7 Assistant United States Attorney

8 DATED: 3/18/08 /s/
9 DOUGLAS L. RAPPAPORT
Counsel for Mr. Dinh

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11 Accordingly, for good cause shown, the Court HEREBY ORDERS that the motions hearing
12 scheduled for March 24, 2008 is vacated and rescheduled for May 12, 2008. The parties shall
13 file their respective briefs in accordance with the schedule listed above.

14 The Court FURTHER ORDERS that time be excluded under the Speedy Trial Act from
15 March 24, 2008 to May 12, 2008. The Court finds, based on the aforementioned reasons, that the
16 ends of justice served by granting the requested continuance outweigh the best interest of the
17 public and the defendant in a speedy trial. The failure to grant the requested continuance would
18 deny defense counsel reasonable time necessary for effective preparation, taking into account the
19 exercise of due diligence, and would result in a miscarriage of justice. The Court therefore
20 concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and
21 (B)(iv).

22 SO ORDERED. [No further continuances. (rmw)]

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24 DATED: [3/25/08] 
RONALD M. WHYTE
United States District Judge
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